REMARKS

Claims 1-11, 13-22 and 24-47 are currently pending in this application. Claims 14-20 and 36-49 have been withdrawn. Claims 1-11, 13, 21-22 and 24-35 have been rejected. This Amendment amends claims 1, 21, 24, 27 and 32-35 and cancels claim 23. No new matter has been added. In view of foregoing amendments and following remarks, Applicant respectfully requests allowance of the Application.

Claim Rejections Under 35 U.S.C. §101

Claims 1-11 and 13 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 1 has been amended to recite that "determining each user of the target group having access to the E-survey by comparing, by a computing device, a class identifier with each user profile;. . ." A process using a computing device to accomplish a step is statutorily patentable as the process is tied to a particular machine. Withdrawal of the rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1-3, 5, 7-11, 13, 21-22, 24-32 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,909,669 (hereafter "Havens") in view of U.S. Pat. No. 6,411,936 (hereafter "Sanders"). Claims 4, 6, 33 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Havens in view of Sanders, and further in view of Nelson (US 7,233,908). Even under KSR, obviousness is not shown unless the collected art teaches all elements of the pending claims. *See, Ex Parte Wollenhaupt*, BPAI, Appeal No. 2007-3142 (Mar 13, 2008). Here, the claims define elements that are not disclosed by any cited reference. Applicant respectfully requests withdrawal of the outstanding rejections because the cited prior art references do not teach or suggest all elements of the pending claims.

Claim 1 Defines Over The Cited References

Claim 1 recites, in relevant part:

> determining each user of the target group having access to the E-survey by
> comparing, by a computing device, **a class identifier with each user profile**;
> ...

None of the cited references discloses the above bolded feature. The Office Action alleges Havens discloses a user profile. The Havens reference is directed to assessing worker

productivity. In <u>Havens</u>, worker profiles are used to provide segmentation parameters for survey data, other than providing a control mechanism for accessing the E-survey. Thus, <u>Havens</u> does not disclose comparing "**a class identifier with each user profile**" as claimed. <u>Sanders</u> does not even mention a user profile, and accordingly does not cure the defects of <u>Havens</u>. Therefore, <u>Havens</u> and <u>Sanders</u>, either alone or in combination, do not disclose each and every feature recited in the independent claim 1, and the rejection should be withdrawn.

Claim 1 further recites, in relevant part:

responsive to **an indicator of business performance**, **extracting a segment** of E-survey results data corresponding to the indicator;

comparing **the extracted segment** to an aggregate set of E-survey results data;

identifying any E-survey results data from **the extracted segment** that statistically differ from responding results data from the aggregate set by a predetermined amount;

Neither of the cited references discloses these features. The Office Action alleges <u>Havens</u> discloses these features and cites to various sections of <u>Havens</u>. However, <u>Havens</u>'s segmentor 26 creates segments 32, 34 and 36 based on worker profiles and performs worker productivity assessment on those already created segments. *See* <u>Havens</u>, col. 7. ll.28-34. This is in contrast to the claimed feature of "**extracting a segment**" *responsive* to "**an indicator of business performance.**" Thus, <u>Havens</u> does not have an "**extracted segment**" as claimed. <u>Sanders</u> does not mention segments of survey data, and accordingly does not cure the defects of <u>Havens</u>. Therefore, <u>Havens</u> and <u>Sanders</u>, either alone or in combination, do not disclose each and every feature recited in the independent claim 1, and the rejection should be withdrawn.

Claim 21 Defines Over The Cited References

Claim 21 recites, in relevant part:

a survey database to store survey data collected from a survey completed by a plurality of users identified in a survey target list, wherein each user has been identified by **matching a class identifier to a respective user profile**; ...

Neither <u>Havens</u> nor <u>Sanders</u> discloses the bolded features. As described above with regard to claim 1, neither of the cited references discloses *comparing* "**a class identifier with each user profile**". Thus, neither cited references discloses "**matching a class identifier to a respective user profile**" as recited in claim 21. Therefore, <u>Havens</u> and <u>Sanders</u>, either alone

or in combination, do not disclose each and every feature recited in the independent claim 21, and the rejection should be withdrawn.

Claim 21 further recites, in relevant part:

an analytic engine to **extract a segment** of the collected survey data **in response to an input** and apply a comparison function to the **extracted segment** of the collected survey data and the comparison data, wherein the analytic engine includes a computer processor to retrieve the extracted segment of the collected survey data from the survey database, comparison data from comparison database and other business information, the other business information is data external to the survey database and related to management and/or organizational purposes; and

Neither Havens nor Sanders discloses the bolded features. As described above with respect to claim 1, Havens segments data based on worker profiles but does not *extract* a segment of data. Thus, Havens does not disclose *extracting* a segment in response to an input and comparing the *extracted* segment with other data. Sanders does not cure the deficiencies of Havens. Therefore, Havens and Sanders, either alone or in combination, do not disclose each and every feature recited in the independent claim 21, and the rejection should be withdrawn.

The Office Action further cites to Nelson for features recited in dependent claims 4, 6, 33 and 35. As discussed in a previously filed Response, the Nelson reference is directed to evaluating and presenting surveys ratings and reports from customers. Nelson does not cure the deficiencies of Havens and Sanders. Thus, independent claims 1 and 21 are allowable over all cited references.

Dependent claims 2-11, 13, 22 and 24-35 are allowable for at least the same reason as described above for independent claims 1 and 21. Withdrawal of the rejection and reconsideration is respectfully requested.

CONCLUSION

All outstanding rejections have been overcome. It is respectfully submitted that, in view of the foregoing amendments and remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.

Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Office is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

Date: December 11, 2008   / Shawn W. O'Dowd/
                                  Shawn W. O'Dowd
                                  Registration No. 34,687

Kenyon & Kenyon LLP
1500 K Street, NW, Suite 700
Washington, DC 20005-1257
Tel.: (202) 220-4200
Fax.: (202) 220-4201